# Administrative Directive AD 4.3 Alcohol and Controlled Substances Testing Procedural Guidelines Policy to ensure consistent application of State and Federal anti-alcohol and drug rules affecting employees Department/Division Finance Department / Risk Management Division Effective Date January 1, 1995 Revision Date March 1, 2016 Review Date January 8, 2016 Project Manager Assistant Finance Director/Risk Manager

### Purpose

The purpose of this directive is to outline the City of San Antonio (COSA) alcohol and drug testing policy.

### Policy

COSA has a zero-tolerance policy for which termination of employment will result for positive drug or alcohol test results. The employee will be tested for alcohol, controlled substances and illegal drugs. Declining a test results in the same consequence (termination) as positive alcohol and drug test results.

This administrative directive requires Commercial Drivers License (CDL) and primary drivers to be tested for alcohol, controlled substances and illegal drugs. CDL drivers will be tested in accordance with the Department of Transportation (DOT) regulations and requirements. A non-DOT Drug Test will be administered to primary drivers.

Additional reference material is available in the City's Safety Manual. All applicable employees are required to adhere to the City's Safety Manual.

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Policy Applies To				
External & Internal Applicants		Current Temporary Employees		
Current Full-Time Employees		Current Volunteers		
Current Part-Time Employees		Current Grant-Funded Employees		
Current Paid and Unpaid Interns		☐ Police and Fire Academy Trainees		
Uniformed Employees Under Collective Bargaining Agreements				
Definitions				
Alcohol	The intoxicating agent in beverage alcohol, ethyl alcohol, or other low molecular weight alcohols including methyl and isopropyl alcohol.			
Alcohol Concentration (or content)	The alcohol concentration or content, as defined by the Department of Transportation, is the alcohol in a volume of breath expressed in terms of grams of alcohol per 210 liters of breath as indicated by an evidential breath test.			
Alcohol Testing	Testing for blood alcohol content by a breathalyzer instrument device; drawing or collection blood or serum sample; and laboratory analysis thereon.			

Commercial Driver's License (CDL)	License issued by the Texas Department of Public Safety to operate a vehicle in accordance with Federal Commercial Motor Vehicle Safety Act of 1986.	
Commercial Motor Vehicle (CMV)	A motor vehicle, or combination of motor vehicles, used in commerce to transport passengers or property if the vehicle that:  (1) Has a gross combination weight rating or gross combination weight of 11,794 kilograms or more (26,001 pounds or more), whichever is greater, inclusive of a towed unit(s) with a gross vehicle weight rating or gross vehicle weight of more than 4,536 kilograms (10,000 pounds), whichever is greater; or  (2) Has a gross vehicle weight rating or gross vehicle weight of 11,794 or more kilograms (26,001 or more pounds), whichever is greater; or  (3) Is designed to transport 16 or more passengers, including the driver; or  (4) Is of any size and is used in the transportation of materials found to be hazardous for the purposes of the Hazardous Materials Transportation Act (49 U.S.C. 5103(b)) and which require the motor vehicle to be placarded under the Hazardous Materials Regulations (49 CFR part 172, subpart F).  For purposes of COSA employees, such CMVs include but are not limited to, dump trucks (10 yard), haul trucks (26 yard truck), lowboy trucks, vacuum trucks, water tankers, oilers, grapple trucks, garbage trucks, tractor trailers and roll off trucks.	
Confirmation Drug Test	A second analytical procedure performed on a urine specimen to identify and quantify the presence of a specific drug or drug metabolite.	
Confirmation Validity Test	A second test performed on a urine specimen to further support a validity test result.	
Confirmed Drug Test	A confirmation test result received by a Medical Review Officer (MRO) from a laboratory.	
Controlled Substances	A controlled substance as defined by Chapter 481.002 of the Texas Controlled Substance Act, Schedules I through V of the Federal Controlled Substance Act, including but not limited to marijuana, metabolite, hashish, cocaine, heroin, morphine, codeine, opiates, amphetamines, barbiturates, methamphetamine, hallucinogens and phencyclidine (PCP).	
Designated Employer Representative (DER)	An individual identified by COSA as able to receive communications and test results from service agents and who is authorized to take immediate actions to remove employees from safety-sensitive duties and to make required decisions in the testing and evaluation processes. The individual must be a COSA employee.	
Dilute Specimen	A specimen with certainties and specific gravity values that are lower than expected for human urine as confirmed by MRO.	

Disabling Damage	<ul> <li>Damage which precludes departure of a vehicle from the scene of the accident in its usual manner in daylight after simple repairs.</li> <li>(1) Inclusions: <ul> <li>Damage to vehicles that could have been driven, but would have been further damaged if so driven.</li> </ul> </li> <li>(2) Exclusions: <ul> <li>Damage which can be remedied temporarily at the scene of the accident without special tools or parts.</li> </ul> </li> <li>Tire disablement without other damage even if no spare tire is available.</li> <li>Headlight or taillight damage.</li> <li>Damage to turn signals, horn, or windshield wipers which make them inoperative.</li> </ul>
DOT Agency	The agency (or "operating administration") of the United States Department of Transportation administering regulations requiring alcohol and/or drug testing (14 CFR parts 61, 63, 65, 121 and 135; 49 CFR parts 199, 219, 382 and 655), in accordance with part 40.
Driver	Any employee who operates a vehicle for COSA business. This includes, but is not limited to: full time, regularly employed drivers; casual, intermittent or occasional drivers.
Drug	Illegal drug or controlled substance as defined in this directive.
Drug Testing	A collection of a urine specimen and a laboratory analysis of that specimen by Enzyme Immunoassay (EMIT) screening and, if appropriate, confirmatory testing using the Gas Chromatography/Mass Spectrometry (GC/MS) methods and procedures, or the most current and appropriate technology. All CDL drivers will be subject to a DOT testing, whereas, all others will be subject to a non-DOT testing. Testing includes Pre-Employment, Random, Post Accident, and Reasonable Suspicion.
Illegal Drugs	Any drug or substance that is illegal to possess or consume, including any drug which is obtained illegally; any prescribed drug not being used for the prescribed purpose (drug abuse or misuse); any over-the-counter drug being used at a dosage level different than recommended by the manufacturer or being used for a purpose other than intended by the manufacturer; and any drug being used for a purpose not in accordance with bona fide medical therapy.
Medical Card	A certificate copy of a medical exam issued by a licensed Medical Examiner to commercial drivers as required by the U.S. Department of Transportation.
Medical Provider	COSA's designated provider for drug and alcohol testing.
Medical Review Officer (MRO)	A medical professional that reviews laboratory analysis.
Negative Test Result	Does not indicate the presence of a suspected or particular substance. This includes negative-dilute results.
Positive Test Result	Confirming result indicates existence or presence of a controlled substance, illegal drug or alcohol concentration of .04 or greater. Declining to test, or adulterating a specimen results in the same consequence (termination) as a positive test. A positive-dilute result is considered as a verified positive test.
Post Accident Testing	Post Accident Testing is testing that occurs following a vehicle collision/accident.

Pre- Employment Testing	Testing performed on an applicant as a condition of employment during the conditional offer period, or on an employee transferring or promoting into a position where driving is an essential part of the position.	
Primary Driver	Employees whose essential job functions require the operation of COSA equipment or routinely driving an average of 150 miles per week. This also includes drivers required to maintain a CDL in order to perform their duties, or employees authorized to take home COSA vehicles regardless of miles driven.	
Random Testing	Testing conducted on a random unscheduled basis.	
Reasonable Suspicion	A conclusion based on specific, observations concerning the appearance, behavior, speech or body odors of the employee that leads to a reasonable suspicion that the employee upon reporting for work, or during work hours has ingested, inhaled or injected into the body, a drug or alcoholic beverage.	
Refusal to Submit	A refusal is failing to perform any of the following:  Appear for any test (except a pre-employment test) immediately after being directed to do so; remain at the testing site until the testing process is complete; to provide a urine specimen for any drug test required; in the case of a directly observed or monitored collection in a drug test, permit the observation or monitoring of the employee's provision of a specimen; provide a sufficient amount of urine when directed, and it has been determined, through a required medical evaluation, that there was no adequate medical explanation for the failure; take a second test that COSA, or collector, has directed the employee to take; undergo a medical examination or evaluation, as directed by the MRO as part of the verification process, or as directed by the DER; cooperate with any part of the testing process when so directed by the collector; or is reported by the MRO as having a verified adulterated or substituted test result.	
Supervisor's Drug & Alcohol Awareness Training	Sixty (60) minutes each of training on alcohol misuse and controlled substances including physical, behavioral, speech and performance indicators of probable misuse.	
Vehicle	Motor-driven/self-propelled with two or more wheels used to transport people or move other material from one location to another, whether or not required to be registered under the laws of Texas.	
Verified Test	A drug test result or validity testing result from a Health and Human Services-certified laboratory that has undergone review and final determination by the MRO.	
Policy Guideline	es	
Testing Process	Test results must be "negative" to be considered for employment, transferring or promoting into a primary driving position where driving is an essential job function.  All primary driver employees who are unable to provide sufficient amount of specimen (i.e. 45 mL of urine) will follow the MRO recommendations for retesting in accordance to 49 CFR Subpart I.  Pre-Employment:	
	Any applicant selected as a candidate for employment with the City or any	

employee transferred or promoted into a primary driving position will be required to submit to pre-employment alcohol, illegal drug and controlled substance testing. A verified negative result is a condition of employment.

City job announcements will state that the selected applicants will be drug tested. Conditional offers will be withdrawn with a positive or positive diluted drug test results for illegal drug or a controlled substance.

Applicant processing is discontinued, and the Human Resources Department will notify the selectee of the disqualification if the selectee:

- Refuses to be tested
- Has a positive or positive diluted drug test
- Refuses to consent to verification of test results for the preceding two years (for CDL drivers)

The Human Resources Department obtains, with the CDL position selectee's consent, information on the selectee's alcohol tests with a concentration result of 0.04 or greater, positive controlled substances test results, and refusals to be tested, within the preceding two years, which are maintained by the selectee's previous employer(s). This information must be obtained no later than 14 calendar days after the driver begins performing a safety-sensitive function. If the information is not obtained within this time period, the driver must be removed from driving and employment may be terminated.

# Testing Process (cont.)

### **Random Testing:**

Randomly during each fiscal year Risk Management electronically generates a random list of CDL drivers and primary drivers for testing. The CDL list will be in compliance with current established DOT testing rates. The frequency and number of primary drivers will be determined in accordance with budgetary allowance each year. The CDL and primary drivers' random pools shall not be comingled.

Risk Management will provide the random testing list to departments for employees selected to be tested. Confidentiality of packets to the department are essential and the packets are not given to the departments prior to testing week.

Risk Management will provide packets to the departments. Points of contact for each department will provide the testing roster to supervisors of selected employees.

Employees may be escorted by their supervisor/manager to the Occupational Health clinic with a valid license for identification for purposes of conducting the test.

Supervisor is to ensure employees are given minimum possible advance notice that he/she must go to the collection site; therefore, employees must report for random within 2 hours of notification.

A refusal is considered a positive test and will be treated as such.

### **Post Accident:**

Any COSA employee who is involved in a vehicle accident in a COSA-owned or personal vehicle conducting COSA business must immediately notify their supervisor of the accident and remain at the scene of the accident until the supervisor arrives or provides other instructions.

COSA employees shall be tested for alcohol and drugs when there is reasonable suspicion or when any of the following apply:

- The vehicle collision/accident involved bodily injury to any person who, as a result of the injury, immediately receives medical treatment away from the scene; or
- If one or more vehicles incurred disabling damage as a result of the collision/accident, requiring the vehicle to be transported away from the scene by a tow truck or other vehicle; or
- If the collision/accident involved the striking of a pedestrian; or
- If the collision/accident involved the loss of human life; or
- A citation is issued to the COSA employee

Employees will remain in non-driving status until lab results of the alcohol and drug screenings are reported to driver's manager/supervisor.

An employee subject to post-accident testing who unnecessarily leaves the scene of an accident before a required test is administered or fails to remain readily available for testing is considered to have refused to submit to testing.

# Testing Process (cont.)

### Reasonable Suspicion Testing:

If a manager/supervisor has reasonable suspicion to believe that an employee is under the influence of alcohol, drugs or a controlled substance when reporting to work or during the work shift, the supervisor must seek the opinion of another supervisor, preferably one who is a higher level supervisor or designee. If witnesses are not readily available, it is the manager/supervisor's responsibility to order the suspected employee to a safe area in the worksite/workplace until a witness is gathered.

The manager/supervisor will complete a Reasonable Suspicion/Belief Form (Attachment A) to document the employee's behavior at the time of observation. The witness will sign the Reasonable Suspicion/Belief Form after the supervisor has completed the form. If the department Director is not available to sign the form, the manager/supervisor shall secure the signature at the earliest available date.

The supervisor shall offer the employee the opportunity to test for alcohol and drugs. The supervisor will inform the employee that testing will be conducted immediately on COSA time and is paid for by COSA. If an employee declines the alcohol and drug test, the supervisor will make arrangements to have the employee taken/escorted home after having informed the employee that declining a test results in the same consequence (termination) as a positive alcohol and drug test result. Failure to test constitutes a positive test result.

The supervisor will escort the employee, who agrees to be tested to the COSA-contracted testing center for the test and remain with the employee. After the test has been completed, the supervisor will escort the employee or secure transportation to the employee's residence. The employee will be placed on Administrative Leave and instructed to call their supervisor the next work day for further instructions.

Under no circumstances will an employee believed to be under the influence be allowed to drive.

# Testing Process (cont.)

The supervisor will contact the San Antonio Police Department if an employee who is under reasonable suspicion refuses to be escorted off the worksite/workplace.

The original Reasonable Suspicion/Belief Form shall be forwarded to Human Resources and a copy provided to the employee upon request. If an alcohol and drug test was taken, results should be attached to the completed form and kept in the Human Resources office.

Only supervisory and managerial employees who have attended Drug and Alcohol Awareness training are authorized to make a determination of reasonable suspicion and immediately remove an employee from their duties.

All violations of this Administrative Directive will result in disciplinary action.

The illegal manufacture, use, possession, distribution, dispensation, transfer or sale of alcohol, drugs or a controlled substance by employees on duty or at COSA worksites will result in termination.

## Discipline

The City of San Antonio has a Zero Tolerance Policy for which termination of employment will result for positive test results. A refusal, as defined in this administrative directive, results in the same consequence (termination) as positive alcohol and drug test results. Positive alcohol .04 and above and drug screening results will be reported to DOT for existing COSA CDL employees and CDL Pre-hires. Additionally, positive alcohol and drug screening results for all pre-hires will result in a withdrawal of employment offer.

### Roles & Responsibilities

To never perform any duty while under the influence of alcohol, drugs, and/or a controlled substance.

Never possess, consume, manufacture, use, distribute, dispense, transfer or sell alcohol, or drugs on COSA worksites while on or off duty or while on duty outside of COSA worksites, to include lunch and/or breaks.

### Employees

All employees using medication (i.e. prescribed and/or over-the-counter) which may impair job performance shall report this information to their supervisors in writing prior to performing any duties.

All drivers are responsible for maintaining valid licenses; CDL drivers will also maintain a current medical card.

The employee must report to his/her supervisor and Risk Management any changes in license status immediately, but no later than the end of the business day upon which the employee received notice of the suspension, revocation, cancellation, lost privilege, or disqualification.

All employees will report to the medical provider for drug testing immediately upon notification; employees who are concerned about their alcohol, legal drug or controlled substance use are strongly encouraged to voluntarily seek assistance. Employees can schedule an Employee Assistance Program (EAP) or medical rehabilitation appointment on their own time. COSA's EAP is available as a resource for all full-time employees.

# Employees (cont.)

If an employee attempts to self-refer to EAP after being notified of impending action such as selection for a random test or referral for a reasonable suspicion test, the employee may still seek help, but it does not preclude any potential disciplinary action.

Each person who operates a motor vehicle on COSA business, whether it be COSA owned or personal, who has a Commercial Driver's License issued by a State or jurisdiction, and who is convicted of violating, in any type of motor vehicle, a State or local law relating to motor vehicle traffic control (other than a parking violation), shall immediately but no later than the end of the business day notify their supervisor and Risk Management of receiving a violation, an alcohol and/or drug related arrest, and/or conviction.

Department directors will ensure all department employees adhere to and follow this administrative directive, any referenced manuals, processes or programs, and all applicable regulations related to the alcohol and drug testing program.

Department directors are responsible for directing all department management and supervisory personnel to maintain the confidentiality of all information disclosed by the employee and Human Resources Department with regard to employee testing or medication taken by the employee.

All supervisors and managers will report to Risk Management in writing cause for driver's absence from testing.

### Departments

Employees, upon notification of selection, are to be immediately escorted by their supervisor/manager to the medical provider with a valid Texas Driver's License for identification purposes of conducting the test.

Departments will report to Risk Management any internal policy changes relating to alcohol and drug testing. Please note: Policies may be more stringent but never more lenient than this administrative directive.

Departments are responsible for reporting to Human Resources employees who are no longer in a driving position and any employee transferring into a driving position and shall maintain current list of all primary drivers. Department Director is the final authority on whether an employee is designated as primary driver.

Departments are responsible for ensuring supervisors attend training in Alcohol and Drug Awareness. This training is mandatory for all Supervisory personnel

Departments (cont.)	responsible for COSA drivers. Training is coordinated through Risk Management and Human Resources.
	COSA must provide detailed information to all CDL and primary drivers about alcohol and/or drug misuse, the COSA policy, the testing requirements, and how and where employees can get help for alcohol abuse and/or drug abuse.
Human Resources	Provide guidance, coordinate Drug and Alcohol Awareness training, and facilitate departmental compliance with this administrative directive.
	Retrieve the random list immediately upon notification from the Risk Management SharePoint site for their affected departments.
	Assist departments to ensure adherence to zero tolerance and this policy.
	Ensure that CDL drivers and primary drivers are correctly identified in SAP.
	Reviews all drug and alcohol awareness material provided to CDL and primary drivers. In conjunction with Human Resources, coordinate mandatory Drug and Alcohol Awareness training.
	Initiates random testing for CDL and Primary drivers. CDL will be randomly tested in accordance with DOT guidelines.
	Notifies HR of employees selected for testing.
	Monitors testing types with the exception of pre-testing for hiring.
	Responsible for retaining and reporting statistical information.
Risk Management	Record Retention, as applicable:  (1) Keep the following records for five (5) years:  • Alcohol concentration results of 0.02 or greater  • Verified positive drug test results  • Refusal documentation (including substituted or adulterated drug test results)  • SAP reports  • All follow-up tests and schedules for follow up tests  (2) Keep the following record for three (3) years:  • Information obtained from previous employers concerning drug and alcohol test results of employees  (3) Keep the following records for two (2) years:  • Inspections, maintenance, and calibration of EBTs  (4) Keep the following records for one (1) year:  • Negative and cancelled drug test results and alcohol results with a concentration of less than 0.02

This directive supersedes all previous correspondence on this subject, including COSA Administrative Directive 4.3 Controlled Substance and Alcohol Testing January 1, 1995, Administrative Directive 4.79 Use of Intoxicants/Drugs in the Workplace February 8, 1991 and Administrative Directive 4.79A Post-Accident Alcohol and Drug Testing April 8, 2010. Information and/or clarification may be obtained by contacting the Finance Department, Risk Management Division.



### **CITY OF SAN ANTONIO**

# EMPLOYEE ACKNOWLEDGMENT FORM FOR

# **ADMINISTRATIVE DIRECTIVE 4.3 Alcohol and Controlled Substances Testing**

Employee:	
9	, 20, I received a copy of Administrative lled Substance Testing, and was given the opportunity to ask esources Representative.
Employee Name (Print)	Department
Employee Signature	Employee SAP ID Number

### CITY OF SAN ANTONIO REASONABLE SUSPICION/BELIEF FORM **Department Submitting Form:** Division: Contact Name/Title: Phone No.: Employee's Name: Employee SAP No.: Job Class Title: Witness Names/Titles: (If witnesses were not gathered, document steps taken in an attempt to gather witnesses.) Date/Time of Observation: Check all that apply Observation by Observation by **Supervisor** Witness Behavior(s) Observed Possessing, using, or dispensing a prohibited substance Abnormal or erratic behavior Verbal abusiveness П Physical abusiveness Extreme aggressiveness or agitation Withdrawal, depression, mood changes, or unresponsiveness Inappropriate verbal response to questioning or instructions Slurred or incoherent speech Unsteady gait or other loss of physical control; poor coordination Dilated or constricted pupils or unusual eye movement Bloodshot or watery eyes Extreme fatigue or sleeping on the job Excessive sweating or clamminess of the skin П П Flushed or very pale face Highly excited or nervous Nausea or vomiting Odor of alcohol Odor of marijuana П Dry mouth (frequent swallowing/lip wetting) Dizziness or fainting Shaking hands or body tremors/twitching Irregular or difficult breathing Runny sores or sores around nostrils Inappropriate wearing of sunglasses Puncture marks or tracks Other erratic or inappropriate behavior (e.g. hallucinations, disorientation, excessive euphoria, confusion) (Please specify below) Other erratic or inappropriate behavior:

Attachment B AD 4.3 Alcohol and Controlled Substances Testing

### REASONABLE SUSPICION/BELIEF OBSERVATION NARRATIVE

(This detailed description must be completed at time of observation)

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supervisor actions, including if the employee was escor	day) and circumstances of the incident, employee response, rted home, and any other pertinent information not previously rise to your reasonable suspicion. Attach additional sheets as
Employee declined to take drug/alcohol test: YES	NO
Signature of Supervisor:	Date:
Signature of Witness:	Date:
Signature of Witness:	Date:
Department Director's Signature:	Date:
HUMAN RESOURCES	S DEPARTMENT USE ONLY
Reviewed By (Print):	Date:
Signature:	
reasonable suspicion determination. The Departme possible time and the Human Resources Departmen	time of the incident, if witnesses are used to make the nt Director's signature must be secured at the earliest t must review this documentation before filing the form in the employee or issuing discipline. The supervisor may d or drug and alcohol testing prior to obtaining the
Attachment B - AD 4.3 Alcohol and Controlled Substances Testin	ng